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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,707	02/06/2004	Dolores C. Kaiser	2152.000009	8290
21917	7590	10/21/2004	EXAMINER	
MCHALE & SLAVIN, P.A. 2855 PGA BLVD PALM BEACH GARDENS, FL 33410				GONZALEZ, MADELINE
		ART UNIT		PAPER NUMBER
				2859

DATE MAILED: 10/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/773,707	KAISER ET AL.
	Examiner Madeline Gonzalez	Art Unit 2859

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) \_\_\_\_\_ is/are rejected.
- 7) Claim(s) 1-20 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 06 February 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

**DETAILED ACTION**

***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the spring biasing means as stated in claims 1 and 12, the at least one helical spring as stated in claims 2 and 13, and the at least one anchor member as stated in claims 2 and 13 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: reference number 36 as stated on page 14, line 19; number 64 as stated on page 16, line 14; number 43 as stated on page 16, line 15; number 63 as stated on page 16, line 18; number 54 as stated on page 17, line 3; number 28 as stated on page 18, line 11; number 67 as stated on page 18, line 12; number 52 as stated on page 20, line 16; and number 53 as stated on page 20, line 16. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

#### ***Claim Objections***

3. Claims 1, 7, 12 and 18 are objected to because of the following informalities:

- a) Claims 1 and 12: The claims recite the limitation "said austenite/martensite phase" in lines 34 and 32, respectively. There is insufficient antecedent basis for this limitation in the claims.

- b) Claims 1 and 12: “transition” in lines 34 and 32, respectively, should be replaced with --transformation--.
- c) Claims 7 and 18: The claims recite the limitation “said helical spring” in line 1, respectively. There is insufficient antecedent basis for this limitation in the claims.

Appropriate correction is required.

***Allowable Subject Matter***

4. Claims 1-20 would be allowable if rewritten or amended to overcome the objection(s) set forth in this Office action.

5. The following is a statement of reasons for the indication of allowable subject matter:

Claim 1 would be allowed because the prior art of record does not show or suggest a cooking thermometer having an audible alarm, the thermometer having a housing including a temperature indicia plate, a pivoting pointer movable over said indicia plate, a linear segment of heat contractible shape memory alloy wire disposed within a skewer and being selected such that said wire begins phase transformation at a first lower temperature and completes phase

transformation at a second higher temperature, and a gear assembly rotatably mounted in the housing, in combination with the remaining limitations in the claim.

Claims 2-11 would be allowed due to their dependency on claim 1.

Claim 12 would be allowed because the prior art of record does not show or suggest a cooking thermometer having a housing including a temperature indicia plate, a pivoting pointer movable over said indicia plate, a linear segment of heat contractible shape memory alloy wire disposed within a skewer and being selected such that said wire begins phase transformation at a first lower temperature and completes phase transformation at a second higher temperature, and a gear assembly rotatably mounted in the housing, in combination with the remaining limitations in the claim.

Claims 13-20 would be allowed due to their dependency on claim 12.

### *Conclusion*

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Dight discloses a thermometer having a skewer including a coil which revolves as the temperature changes and moves a needle indicating the temperature. Ou-Yang discloses a

temperature indicator having an organic retaining means. Gee discloses a temperature indicator having a fusible alloy. Weynant nee Girones discloses a temperature monitoring device having an alloy which memorizes its shape. Kaiser et al. ('110) and Kaiser et al. ('086) disclosed related temperature measuring devices having a temperature sensitive spring in bi-metallic communication. Volk et al. ('606), Volk ('000), Volk et al. ('102), Yeung, Burke, Goff et al. ('250) and Perkins disclose related temperature measuring devices.

7. This application is in condition for allowance except for the following formal matters:  
the objections to the drawings and claims stated above.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Madeline Gonzalez whose telephone number is (571) 272-2243. The examiner can normally be reached on Monday-Friday (8:00-5:30), alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MG



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**CHRISTOPHER W. FULTON  
PRIMARY EXAMINER**